

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLES CORTEZ, et al.,  
Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,  
Defendants.

Case No. 23-cv-01222-MMC

**ORDER GRANTING PLAINTIFFS'  
COUNSEL'S MOTION TO  
WITHDRAW; STAYING ACTION AND  
VACATING DEADLINES; VACATING  
MAY 17, 2024, HEARING;  
DIRECTIONS TO PLAINTIFFS'  
COUNSEL**

Before the Court is the Motion, filed April 3, 2024, by John L. Burris, Ben Nisenbaum, and Christopher Dean (collectively, "Law Offices of John L. Burris") "for Leave of Court to Withdraw as Counsel for Plaintiffs Charles Cortez and Hilma Cortez," which motion, as clarified in a supplemental filing submitted April 11, 2024, seeks an order allowing the Law Offices of John L. Burris to withdraw as counsel not only for Charles Cortez and Hilma Cortez, who are the parents of decedent Michael Cortez, but also for three minors, who are the decedent's children, specifically, (1) J.S., who appears through her guardian ad litem Serina Sagon, (2) L.C., who appears through her guardian ad litem Ashley Mabutas, and (3) M.P.C., who has not appeared to date in the instant action.<sup>1</sup> Although all said clients were served with the above filings, none has filed a response thereto. Defendant United States of America filed a statement of non-opposition, in which it includes two requests. Having read and considered the parties'

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<sup>1</sup> In a supplemental declaration submitted in support of the instant motion, counsel states that, after the operative complaint was filed, M.P.C.'s mother, Justinne Pasion, retained the Law Offices of John L. Burris, and that she is acting as M.P.C.'s guardian ad litem. (See Supp. Burris Decl. ¶ 8.)

1     respective written submissions, the Court deems the matter suitable for decision thereon,  
2     VACATES the hearing scheduled for May 17, 2024, and rules as follows.

3             For the reasons stated by the Law Offices of John L. Burris, and good cause  
4     appearing, the motion to withdraw is hereby GRANTED.

5             To the extent the United States requests that the Court continue all pending  
6     deadlines until sixty days after new counsel has appeared for plaintiffs, the Court declines  
7     to do so, as it is unclear when, or whether, new counsel will appear. The Court will,  
8     however, afford plaintiffs an opportunity to obtain new counsel, and, accordingly, hereby  
9     STAYS the above-titled action until July 26, 2024. If, as of July 26, 2024, new counsel  
10    has not appeared, the Court, unless information counseling against dismissal has been  
11    submitted, will dismiss without prejudice the claims asserted on behalf of the minor  
12    plaintiffs, as they and their respective guardians ad litem cannot appear without counsel,  
13    see Johns v. County of San Diego, 114 F.3d 874, 876 (9th Cir. 1997) (holding “guardian  
14    or parent cannot bring a lawsuit on behalf of a minor in federal court without retaining a  
15    lawyer”); the instant action will then proceed on behalf of Charles Cortez and Hilma  
16    Cortez only, each of whom may appear pro se. Further, in light of such stay, the current  
17    dates, namely the June 7, 2024, deadline for defendant to file a reply in support of its  
18    pending motion to dismiss, the July 19, 2024, hearing on defendant's motion to dismiss,  
19    and the August 16, 2024, Case Management Conference, as well as the deadlines  
20    associated with said Conference, are hereby VACATED, and will be reset, as  
21    appropriate, after the stay is lifted.

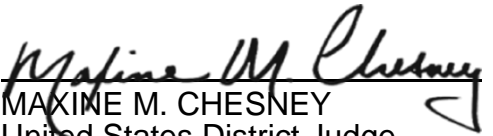
22             To the extent the United States requests that it be allowed to serve any filings on  
23    the Law Offices of John L. Burris, which, in turn, would be responsible for forwarding  
24    them to each of plaintiffs, the request, given the stay of proceedings, is hereby DENIED  
25    without prejudice.

26             Lastly, the Law Offices of John L. Burris is hereby DIRECTED to serve, no later  
27    than May 10, 2024, a copy of the instant order on Charles Cortez, Hilma Cortez, and  
28    each of the three minors through their respective guardians ad litem, and to file proof of

such service no later than May 13, 2024.

**IT IS SO ORDERED.**

Dated: May 8, 2024

  
MAXINE M. CHESNEY  
United States District Judge

United States District Court  
Northern District of California